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ABSTRACT

This paper discusses three major statements on shared authority and points out that there appear to be three types: joint participation in decisionmaking, separate jurisdictions, and collective bargaining. Academic senates and campus councils are the major manifestations of the first two types and a brief discussion of the state and their evolution is provided. A major section of the paper deals with collective bargaining as a governance mechanism. The paper concludes with a brief discussion of the directions in which governance reforms appear to be heading. A 16-item bibliography is included. (Author)

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"Forms of Campus Governance: Joint Participation, Separate Jurisdictions and Collective Bargaining"

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Session: New Forms of Governance -
The Redistribution of Power and Authority
How Are They Working Out?

The current governance milieu in higher education is in a state of flux. A variety of external pressures, many of them of fairly recent origin, are forcing changes in the definition of institutional autonomy, while at the same time internal constituencies are demanding an increased role in decision making. Other analysts at this conference have drawn the assignment of discussing the increased power and influence of the courts, legislatures, the federal government and state coordinating and governing boards. My task is to discuss campus governance reforms and their potential impact on the redistribution of power within colleges and universities. It is apparent, however, that many of the attempts to reform campus governance are related to and will be influenced and/or determined by the directions that external forces take in the redefinition of institutional autonomy. The remainder of this paper should be considered with this caveat in mind.

The paper will discuss three major statements on shared authority and point out that there appear to be three types: joint participation in decision making; separate jurisdictions, and collective bargaining. Academic senates and campus councils are the major manifestations of the first two types and a brief discussion of the state of their evolution is provided. A major section of the paper deals with collective bargaining as a governance mechanism. The paper concludes with a brief discussion of the directions in which governance reforms appear to be heading.

Shared Authority

Perhaps the most crucial issue in the reform of campus governance in the 1970's is the proper distribution of power and authority among administrators, faculty, students, non-teaching professionals and others who want some input into the decision-making process. In the past six years there have been three major statements on the distribution of authority which have suggested a range of mechanisms or models for consideration.

The AAUP "Statement on Government of Colleges and Universities" (1966) is a call "to mutual understanding regarding the government of colleges and universities (376)." Such understanding is to be based on a community of interest among inescapably interdependent parties including the governing board, administration, faculty, students and others. "The relationship calls for adequate communication among these components and full opportunity for appropriate joint planning and effort (376)."

There are a variety of approaches through which joint effort might be implemented but the Statement claims that two general conclusions are clearly warranted:

> (1) important areas of action involve at one time or another the initiating capacity and decision making participation of all the institutional components and (2) differences in the weight of each voice, from one point to the next, should be determined by reference to the responsibility of each component for the particular matter at hand ... (p. 376).

The Statement cites several examples of issues where joint endeavor among constituencies is required, and other areas where one constituency or agent has primary responsibility. In a later statement on "Student Participation in College and University Government" (1970), primary responsibility is defined as "the ability to take action which has the force of legislation and

can be overruled only in rare instances and for compelling reasons stated in detail (p. 48)." Returning to the 1966 Statement, the case of planning requires joint endeavor in establishing and maintaining channels of communication and this is clearly different from the system of responsibility for making decisions on planning. Joint effort is urged in planning physical resources, the selection of a new president and some areas of personnel. Multiple responsibilities in budget making require that each component be heard and the function of each component be specified. The selection of academic deans and other chief academic officers is a responsibility of the President but he should consult with the faculty.

The Statement is confusing to some because of its inconsistent use of terminology. The faculty has primary responsibility for curriculum subject matter and methods of instruccion, research, faculty status and some aspects of student life. The President has a special obligation to innovate and initiate, a duty to see that standards and procedures in operational use conform to established board policy and standards of sound academic practice and he must at times, with or without support, infuse new life into a department. (This last seems to indicate that he must impose his will in areas where others have primary responsibility.) The governing board is responsible for husbanding the endowment, obtaining needed capital and operating funds but it should only pay attention to personnel policies.

In summary, the AAUP Statement involves sharing authority among inescapably interdependent constituencies based on an understanding that some decision making areas require joint endeavor while others require a specification of essentially separate jurisdictions in which one constituency

has primary responsibility. It appears that some components have special obligations, duties and ultimate responsibilities which transcend the concept of primary responsibility.

The acceptance of the concept of shared authority was strengthened by the Report of the AAHE-NEA Task Force on Faculty Representation and Academic Negotiations, Faculty Participation in Academic Governance (1967). The report states that shared authority represents the middle zone of an authority continuum which ranges from administrative dominance and primacy on one end to faculty dominance and primacy on the other (p. 15-16). The shared authority zone is designated as one in which both the faculty and administration exercise effective influence in decision making. According to the report, "It should not be inferred that all forms of shared authority are comparable and have a similar effect on the quality of faculty-administration relations. Both collective bargaining and the delegation of decision-making power to an academic senate are variants of shared authority, but the substantive and tactical implications of each may be quite different (p. 15-16)."

The concept of effective influence involves faculty (and presumably administrative) participation early in the decision making process (p. 24) and a recognition that there are some issues, such as grading, on which faculty views should prevail and other issues, such as business management, on which administrative views should prevail. Faculty influence should be effective on such aggregate issues as educational, administrative and personnel policies and economic matters, as well as the procedures for making decisions on questions of concern to individual faculty. In short, endorsement of the concept does not mean that authority should be shared equally between the faculty and the administration on all issues.

Another recent statement on shared authority is contained in Keeton's book Shared Authority on Campus (1971). Keeton says that shared authority takes two forms. One form is joint participation in deciding and the other is agreeing that different parties will, within defined limits, make the decision alone (p. 108). He offers four grounds on which various campus constituencies, governing boards, administrators, faculty, students and others, can claim a right to share in governing (p. 9).

First, those whose concerns and lives are most affected by campus activities should have a part in their control. Second, those who are most competent to do the work of the campus should have a voice that ensures the effective use of their competence. Third, those whose cooperation is essential to the effectiveness of the campus and, fourth, those whose sponsorship and resources created and sustain the institution are both entitled to protect and articulate their perspectives. According to Keeton, these four grounds for participation provide a basis for discussing the claims for participation in a shared authority system of governance.

A review of the three documents cited above shows there is a rather confusing and sometimes contradictory range of options to achieve shared authority on given issues. The first is joint participation in decision making which depicts a situation in which full consultation and cooperation among all constituents is the norm. Under a joint participation model, faculty, administrators, students and others all participate in formulating policy alternatives. This could be accomplished through committees where all these constituencies are represented or in universitywide councils such as the Penn State University Council or the Council of the Princeton University Community (Mortimer, 1971), or through a broadly representative

academic senate. Presumably, the views of a broad range of constituencies are considered before decisions are made and positions rigidified.

A second option under the term shared authority is that of separate jurisdictions. This option calls for an understanding of those decisions that are most clearly within the concern, competence and responsibility of one constituency. The separate Student and Faculty Assemblies or Caucuses at the University of Minnesota and New Hampshire, respectively, constitute an example of separate jurisdictions (Dill, 1971). At each University it was assumed that there were matters which the faculty and administration should decide independently of student judgment and matters which the students and administration should decide jointly. Both Universities also created a body in which matters of concern to all three parties were to be discussed. That is they recognized that there were some efforts in which joint participation was needed.

A third option in a shared authority system of governance is that of collective bargaining. Each party agrees to negotiate in good faith and eventually to sign a legally binding agreement. Each party has veto power over the proposals of the other and will normally agree on a formal procedure to resolve future disputes on matters within the scope of the contract. The scope of the contract is itself a negotiable issue. According to the AAHE Task Force Report, "When a majority of the faculty has chosen one organization as its bargaining agent, however, it has elected to place primary reliance on power in its dealings with the administration (p. 45)."

As a college or university moves from joint participation to separate jurisdictions and on to collective bargaining academic authority relations

tend to become more codified. Increased codification is not inevitable but is very likely to occur and puts more emphasis on power rather than influence. This is not to say that there is no persuasion used in the collective bargaining process or in the implementation of a contract but rather that the balance of legitimacy will be on formal rather than functional bases.

Joint participation, the separation of jurisdictions and collective bargaining should not, however, be perceived as mutually exclusive approaches to the sharing of authority in colleges and universities. These three approaches can be and are used on a single campus. The State University of New York at Buffalo, has a broadly based campus assembly, a faculty senate, a non-teaching professional staff senate and is part of the collective bargaining agreement for the State University of New York system. A number of institutions, such as Central Michigan University and St. John's University, both have senates and collective bargaining contracts. Presumably these three models or approaches to the sharing of authority can co-exist. The ultimate accommodation among these approaches is a subject of considerable debate and some research, and a clearer understanding of their implications is needed.

Senates and Councils

Over 300 colleges and universities are said to be experimenting with or reorganizing their campus senates or councils, the most common examples of joint participation and separate jurisdiction mechanisms (Hodgkinson, 1971, p. 9). The existence of senates and councils constitutes an implicit, and in some cases an explicit, recognition of the traditional authority structure of most colleges and universities.

The existence and operation scope of senates and councils is dependent on governing board or administrative approval. Legally, the authority to make binding decisions in a college or university rests in the governing board. The board may choose to delegate some of that authority to a president and/or to the faculty or a more broadly representative senate. The basic point, however, is that it is a conscious decision of the board to delegate that authority. In short, the particular authority and powers of a senate are or may be a function of the tradition and culture of the institution, but at some point in the institution's history the board and administration has made a conscious decision to sustain or create a Senate. Such decisions can be changed, with or without constituent approval.

This fundamental fact about senates is not well understood by faculty and students and they are surprised when it happens. In 1970 the Board of Trustees at The Pennsylvania State University issued a directive which redefined the authority of the President and the Academic Senate. Previously, the Senate had direct access to the Board and legislative authority over a certain area such as curriculum and student affairs. Under the new directive, the authority for such decisions is delegated to the President and he is responsible for decisions on matters which used to be the prerogative of the Senate. The legal authority of the Senate was revised so that it is advisory to the President on matters that come before it.

The basic point is that senates and councils rely on institutional approval for their existence. They are built from the top down and rely on tradition and custom for their legitimacy. As will be pointed out later in the paper, collective bargaining draws on an external body of law for its legitimacy.

Problems in the organization and operation of senates and councils have been discussed in detail elsewhere (Bowen, 1969, McConnell and Mortimer, 1971, Mortimer, 1971 a and b, and Mason, 1972). These problems include inadequate representativeness, lack of accountability, internal politicization and lack of purpose.

Senates have been critized because they are not representative of the plurality of interests and perspectives found on a college campus. This is especially true in those institutions where a faculty senate is the only representative body in existence. This inadequate representativeness is exacerbated by the tendency to exclude junior faculty from senate membership and from participating on important senate committees.

Senates have been accused of being irresponsible because they fail to provide an opportunity to appeal their decisions (Lieberman, 1969). The charge of lack of accountability is rooted in the fact that senates often operate inefficiently and that responsibility for decisions is diffused over such a wide area that coordination rather than control becomes the major emphasis.

That some senates have become intensely politicized is no surprise, given the state of campus conflict in the late sixties. It is somewhat surprising that senates and councils could come out of that upheaval without a clearer idea of what role they should perform in the total institutional governance system.

Two developments in the evolution of campus senates are apparent and may result in clearer definitions of purpose. The first is the apparent demise of town meeting structures in favor of representative bodies and the second is the rise of unicameral bodies.

The idea of a town meeting form of government has taken a long time to die. For a number of years such institutions as the University of Wisconsin at Madison, the University of California at Berkeley, and the State University of New York at Buffalo had a town meeting form of senate which all faculty members were encouraged to attend. All three of these institutions have dropped this structure. While I have no experience with the senate at Madison I have made visits to or done research on the senates at Buffalo and Berkeley. It is quite apparent that the town meeting senate cannot function in time of severe campus conflict. When the campus becomes politicized there is a tendency for different groups to organize in an attempt to control senate meetings. This tends to paralyze the senate and undermine its effectiveness. That is, the legitimacy of decisions made by town meeting bodies comes under severe question. The campus comes to realize that a vote or decision is merely a reflection of who happened to be attending the meeting on a given day, rather than a majority view of the faculty.

Many institutions have adopted bodies in which faculty, students and administrators are represented. Harold Hodgkinson has recently completed a survey of over 1700 institutions and found that 640 had or were experimenting with some type of unicameral senate. He also found 40 institutions which had tried unicameral senates and found them to be unacceptable. The as yet unavailable data on these 40 institutions should provide an insight into the efficacy of these reforms in a variety of institutional contexts.

David Dill's (1971) case studies of Florida A&M, Columbia University, and the Universities of Minnesota and New Hampshire do provide some insight into the problems encountered in the early experience of unicameral bodies (pp. 148-154). First, the more progressive decision-making bodies at

Columbia and New Hampshire generated the most conflict.* [illegible]uted this high degree of conflict to the institutions' lack of resources and to the influence in these senates of students and junior faculty members "who have few if any concerns about jurisdictional precedents and are quite willing, in the first year at least, to explore a wide variety of issues (p. 149)." Significantly, a great deal of this increased conflict was directed towards governing boards rather than administrators.

Second, the need for supportive political apparatus was not anticipated. There appeared to be a move toward a more overtly political process of balancing the interests and perspectives of various campus constituencies. Dill reported a tendency for the elected members of unicameral bodies to become representatives of fixed constituencies and to regard themselves as spokesman of various viewpoints rather than colleagues engaged in furthering the educational process.

Third, participation by faculty and students on these bodies consumed a great deal of their energy. "Large numbers at each of the universities visited indicated they were sacrificing their studies, research and teaching in order to be involved in university governance. And an alarming number of them said they would not do it again (p. 150)."

The long-run viability of these structures may well depend on the sustained interest of faculty and students in permanently participating in the tedious process of governance. There is little evidence, as yet, to

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*The degree of progressiveness depends on four variables: 1. how broadly one defines membership in the academic community; 2. The extent of representation awarded the students; 3. The degree to which all constituents have equal rights and status in the body; 4. The degree of openness of the meetings.

suggest that they are willing to spend the time and energy necessary to sustain the long range vitality of these decision-making bodies.

Another problem in the operation of unicameral bodies arose in those cases where they co-existed with separate student and faculty senates. In the first years of operation at both Minnesota and New Hampshire there was a tendency to by-pass these separate faculty and student bodies in favor of the unicameral bodies. If this tendency has continued in subsequent years it may seriously undermine the effectiveness of separate jurisdiction bodies.

Collective Bargaining

Collective Bargaining as a mechanism for sharing authority on the campus has achieved prominence in recent years. The first collective bargaining contracts in two-year colleges were signed in the mid 1960s. The City University of New York and Southeastern Massachusetts University contracts, the first four-year institutions to bargaining collectively with faculty, were signed in 1969. The best estimates of the extent of collective bargaining by Fall, 1972 reveal that approximately 170-180 institutions with 250-260 campuses have chosen bargaining agents. This would account for about ten to fifteen percent of the nation's faculty. In 1971 Garbarino reported that approximately 90 percent of this activity had taken place in six states -- New York, Michigan, Wisconsin, New Jersey, Illinois, and Massachusetts. More recently, however, there has been considerable activity in Kansas, Pennsylvania, Washington, Hawaii, Rhode Island and Delaware. In fact, faculty bargaining agents have been chosen in at least 20 states and include public and private institutions, community colleges and complex universities, liberal arts colleges and vocational-technical institutes.

Two major legal developments have aided the rise of collective bargaining. In the public sector approximately 26 states now have legislation that permits collective bargaining with faculty members in public institutions. The extent to which this legislation is permissive varies. Legislation in some states, e.g. Pennsylvania and New York, requires colleges and universities to recognize duly chosen bargaining agents while in other states it permits such recognition but does not require it. In 1970 the National Labor Relations Board assumed jurisdiction over private colleges and universities with gross revenues of over one million dollars.

These legal developments are important because they take a body of labor law and practice and apply it to colleges and universities. To the extent that collective bargaining goes beyond salaries, fringe benefits and working conditions to assure faculty participation in governance it does so on the basis of rights established by external agents such as the courts and labor relations boards. As a vehicle for participation in governance, collective bargaining differs from senates and/or councils in four basic ways (Mortimer and Lozier, 1972).

First, although senates may have some basis for their existence in the documents of the institution, their scope of operations is dependent upon board or administrative approval. If governance items appear in a negotiated contract, they can not be changed without prior approval of the bargaining agent.

Second, senates rely on institutional appropriations for operating funds whereas unions rely on a dues structure.

Third, senates are usually based on individual campuses and have little, if any, lobbying power with state legislatures. The National Education Association

and the American Federation of Teachers claim they have substantial political clout at the state level where basic decisions about higher education are increasingly being made.

Fourth, the membership of senates may include faculty, students and administrators although membership varies from institution to institution. Unions force a legally binding separation between administrators and faculty and other employees in the bargaining unit. Students are seldom involved in collective bargaining.

Because the process of collective bargaining is exceedingly complex and so recent, its impact on governance is yet to be determined. It is relatively clear, however, that different patterns will emerge as various institutions experiment with bargaining. Garbarino (1972) has developed a preliminary classification of unionism in four-year colleges that suggests some typical patterns which may evolve.

The first classification is termed defensive unionism. This occurs in a single campus institution which has had faculty participation in governance through a senate or council. This mechanism has evolved into a union with essentially the same leaders in the union as previously controlled the senate. Some semblance of a senate is retained, at least for the time being, to assure participation in policies and procedures which are not part of the bargaining agreement. Defensive unionism tends to modify the form of faculty participation in governance but does not have a significant impact on its substance.

Perhaps the area of greatest impact on governance in those institutions with defensive unionism will be in the experience with grievance procedures. The existence of grievance procedures will force institutions to look more closely

at their personnel policies and the bases on which they make tenure and promotions decisions. Personnel policies will have to follow closely standards of due process and fairness. In this respect, governance as it relates to personnel policies and procedures, is becoming more codified.

A second classification, called constitutional unionism, describes what appears to be happening in many community colleges and in some state colleges. The tradition of faculty participation in governance tends to be very weak in these institutions and the negotiating session tends to develop into a constitutional convention in which extensive governance procedures are developed and put in the contract. The contract tends to be very lengthy and resembles the faculty handbook in scope.

Several examples may be cited. The contract for the New Jersey State Colleges has provision for faculty input into the selection of college presidents. The contract stipulates that any committee assigned a role in the selection of a college president must include a member of the bargaining agent. (The information cited here is discussed in more detail in Mortimer and Lozier, 1973).

Some contracts have provisions for the selection of academic deans. At St. John's University a search committee composed of four tenured faculty members elected by the faculty of the school in which the vacancy exists, submits to the university president the names of no fewer than three candidates. The President in turn submits one of the names to the Board of Trustees for their approval. If none of the committee's recommendations are acceptable to the President, the committee must continue its search. The President cannot recommend any candidate to the board whose name has not been submitted by the committee. At Southeastern Massachusetts University, a seven person screening committee must be established to nominate candidates to fill a

a vacancy in any deanship. Three members of this committee must be tenured faculty appointed by the Faculty Federation. Three others are appointed by the President and the student member is selected by the Student Senate.

Some contracts have provisions for selecting department chairman. At Southeastern Massachusetts University the Dean of the Faculty appoints chairman in consultation with the appropriate college dean. Faculty members of the department may recommend an individual or individuals for the vacant chairmanship. Department chairman in the New Jersey State Colleges are elected by members of their department. The Boston State College contract provides an elaborate procedure for both the election and recall of department chairman. In the first month of the contract, every department was required to elect three members of the department for nomination to the chairmanship. These elections were supervised by the Faculty Federation and all members of the department were eligible to vote and to be nominated. After each election the President of the Federation was to submit a list of nominees to the President of the College who within seven working days, had to appoint a chairman from the list of nominees or to decline to appoint any of them. In the latter instance, the nomination procedures were to begin over again.

There are some provisions in contracts which provide for faculty participation on committees. In some instances, the faculty association is guaranteed a role in making appointments to these committees. The Southeastern Massachusetts University contract creates a committee for awarding sabbatical leaves composed of two Federation and three Presidential appointees. This contract also calls for an academic review committee composed of two trustee representatives, and two Federation representatives, together with the Dean of the Faculty and the Federation President, who serves as an alternate chairman. The purpose

of this committee is to review changes in academic programs which directly affect wages, hours, and conditions of employment specifically covered by the contract. This contract also provides for the formation of six academic councils, one for each academic division, whose purpose it is to participate in the review and recommendation of faculty for tenure. Members of these councils are elected by the tenured and/or senior faculty members in each division.

It appears, then, that constitutional unionism will codify the faculty role in certain governance issues including, in some cases, the appointment of presidents, deans and department chairmen and in faculty personnel cases. Without further case studies of the specific conditions it is difficult to ascertain whether this is a change in the status quo ante.

The third classification that Garbarino has identified is reform unionism, which describes the situation in large multi-campus institutions like the City and State Universities of New York. These institutions are characterized by great complexity and the presence of various types of campuses within the system. The City University has two-year community colleges under the same contract as complex universities. The State University has technical institutes in the same unit with university centers.

How can one association adequately represent the diversity of its membership and the bargaining unit? It is very difficulty and, therefore, the conflict within the bargaining unit tends to be greater in reform unions. Approximately one-third of the State University of New York bargaining unit is composed of non-teaching professionals but they represent one half of the Association's actual membership and one-half of the bargaining team. There is considerable conflict within the Association's governing body as to the positions that it should take in bargaining.

Reform unionism is more likely to have an impact on the distribution of rewards among the members of the unit than defensive or constitutional unionism. The pressures for equity in salaries and uniformity in personnel and governance procedures from non-teaching professionals and junior and non-tenured faculty are quite intense. The City University contract calls for equalization of salaries for equal ranks at all institutions within the system.

Garbarino suggests that there may be a convergence between defensive and constitutional unionism but that reform unionism is special enough to constitute a distinctive third type which will persist over time. The more common model is likely to be defensive and constitutional unionism, however.

Conclusion

The impact of specific reforms is always difficult to assess, especially in the short run. One needs to know the conditions which preceded the change and the new structure needs time to operate before it can be evaluated effectively. There are some points that can be made about the directions in which governance reforms appear to be heading, however.

First, there is a tendency in senates and councils to select their membership on the basis of the structure of a political rather than an educational body. In short the balancing of interests and constituencies is a more overtly political process in 1972 than it was in 1962. The behavior of interest groups has a rationality embedded in political rather than educational norms. Politics is concerned with who has input into the decision-making process and colleges and universities have had to be more specific about what interests and people have access to decision makers.

Second, while the impact of collective bargaining will vary, it is quite clear that substantial governance reform will result. It appears that the potential for changes in governance is larger in institutions, like state and community colleges, which adopt constitutional and reform unionism patterns rather than a defensive pattern. Under constitutional systems, the line between governance and educational matters is likely to be erased in favor of negotiating practically everything that is negotiable. In short, the line that some observers have tried to draw between an employment problem and a professional one is likely to dissipate.

Third, it is still not clear what will happen to existing governance mechanisms when an institution adopts collective bargaining. The bargaining agent has the only legal authority under collective bargaining and the question is whether it will chose to share that authority with a senate or council. Garbarino suggested that a union will agree to such arrangements only as long as there is little conflict on the campus. When conflict arises he believes the union will be forced to step in and usurp areas previously under the senate's jurisdiction. It is possible, however, that senates will continue in existence in some institutions which have adopted more defensive patterns.

Fourth, the roles and duties of certain administrators are likely to change under collective bargaining. In cases where department chairpersons are in the bargaining unit some institutions have already increased the authority and scope of activities performed in the dean's office. Department chairpersons have always been in a nebulous position between deans and departmental faculty but it appears that collective bargaining may push them closer to the central administration, in cases where they are out of the unit, or closer to the faculty when the chairperson is in the bargaining unit.

Fifth, in many public and private institutions collective bargaining takes place directly between representatives of the faculty and the board of trustees. In some multi-campus public institutions the campus administration has little if any role in the negotiating the contract. This direct access of faculty to boards has the potential of undermining the position and/or authority of the campus administration. The administration will only have the responsibility of implementing the contract and defending the institution against grievances.

Sixth, separate jurisdictions and collective bargaining will require more codification of governance procedures than has been customary in most colleges and universities. The pressures to codify procedures are coming from a variety of other forces and the composite trend appears to be overwhelming. Institutions simply will not be allowed to be casual about the way they retain, promote and pay academic personnel. Faculty rights will be matched more closely by statements of faculty responsibilities. Senate constitutions and bylaws will be much more detailed and specific. The scope of collective bargaining contracts will broaden and a body of arbitration and/or court decisions will better define the limits of faculty bargaining. This body of law will serve as a reference point for internal institutional decision making.

In summary, it appears that many of the governance reforms discussed in this paper are attempts to enhance the power of faculty, staff and in some cases, students. The trend to codification of jurisdictions and procedures involved in the separating jurisdictions and collective bargaining models may well be the most important impact of governance reform in the 1970s.

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